IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 2559 (M/S) of 2001

(Old No. 48814 of 1999)

Deewan Lal Shah,
S/o Sri Ganga Shah,
R/o Village Tuniya Maharkhola,
Patwari Khetra Maharkhola,
Tehsil Ranikhet,
District Almora.

..... Petitioner

Vs

1. State of U.P.
2. District Judge, Almora.
3. Sub Divisional Magistrate/ Prescribed Authority, Ranikhet, District Almora. .....Respondents

Sri Kailash Tiwari, learned counsel for the petitioner.
Sri Gopal Narain Srivastava, learned brief holder for the respondents-State.

Hon'ble B.S.Verma, J.

Heard Sri Kailash Tewari, learned counsel for the petitioner and Sri Gopal Narain Srivastava, learned brief holder for the State-respondents.

2. By way of this writ petition, the petitioner has prayed to issue a writ in the nature of certiorari quashing the orders dated 15-9-1999 and 7-9-1998 passed by the District Judge as well as Prescribed Authority.

3. Brief facts of the case are that a notice under Section 4 (1) of the U.P. Public Premises (Eviction of Unauthorized occupants) Act, 1972 notice was sent to the petitioner stating that the petitioner is an unauthorized occupant. The petitioner filed objection against the said notice. The Prescribed Authority passed the order on 7-9-1998 by which he directed the dispossession of the petitioner from the land in dispute. Against the said order dated 7-9-1998, the petitioner preferred an appeal before the District

Judge, Almora. The appellate Court dismissed the petitioner appeal vide order dated 15-9-1999.

4. Feeling aggrieved by the aforesaid orders, the petitioner preferred this petition before the Allahabad High Court, which has been transferred to this Court, for disposal, after creation of new State.

5. I have heard the submissions of the learned brief holder appearing on behalf of the respondent –State and Sri Kailash Tiwari, learned counsel for the petitioner and perused the record.

6. At the outset, it may be mentioned that this Court vide judgment delivered on 25-5-2006 in Writ Petition No.3235 (M/S) of 2001 Krishna Kant Vs. Ist Additional District Judge Nainital and others along with 42 others writ petitions have already considered the controversy involved in the present writ petition. All the 43 writ petitions preferred by different petitioners were allowed by that common judgment and it was held that the provisions of the U.P. Public Premises (Eviction of Unauthorised Occupants) Act, 1972 were not applicable to the agricultural land and its was open to the State to proceed for eviction of the petitioners under the provisions of the U.P. Zamindari Abolition and Land Reforms Act/KUZA Act and other allied laws in force. It was also observed therein that the petitioners may also get their title declared by filing suit under Section 229-B of the Z.A. and L.R. Act/KUZA Act, provided they establish their stand before the Revenue Court. The learned Standing Counsel fairly conceded that the present petition is squarely covered by the said judgment.

7. In view of the fact that this Court has already decided as many as 43 similar writ petition by a common judgment today, there is no need to repeat the same material again in the case at hand. The present writ petition is fully covered by the Judgment passed in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. Ist Additional District Judge, Nainital and others along with 42 other writ petitions decided by this Court on 25-5-2006 itself. This writ petition deserves to be allowed on merit in terms of the said judgment.

8. The present writ petition stands allowed in terms of the judgment passed by this Court in Writ Petition No. 3235 (M/S) of 2001, Krishna Kant Vs. Ist Additional District Judge, Nainital. No order as to costs.

All applications stands disposed of accordingly.

(B.S.Verma, J.)

Dated: - 17-5-2007

M.K.